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1949.

File No. Abk Licenses II/49

Legal Deptt

B **BRANCH**

Subject:— Licences under the Bombay Abkari Act 1878

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1949

File No. Abk Licenses II/49

Gen. 194

254-B

Legal Department.

...vised drafts of license and transport pass are sent herewith.

Sd/-J.R.Dhurandhar.
24-2

for Additional Secretary to Government.

U.O.No. to R.D., No. 2258, dated the 26th February 1949.

S.A.K.
11-6
4 copies

Legal Department.

The licenses for three months which are due to expire on the 31st March 1949 have already been issued by ~~the~~ the Commissioner of Excise to Messrs. Shah and Company, (2) Messrs. S.D.Baria and Company, and (3) Messrs. Miranda Limited.

2. The two licenses at pages 7-20 ante as amended are inorder. But it would not now be possible to substitute new licenses in the place of the existing ones during their currency. The forms of licenses as amended may be used if it is intended to renew them after the expiry of the present term.

3. In the case of S.D.Miranda Limited, the restricted vendar's license will have to contain the terms of the final consent decree the provisional draft of which is at page 5 ante. It is presumed that the Vender's license issued to the said company contains all these terms contained in consent decree.

4. Incidentally it may be pointed out that the intention is to permit all the three companies to dispose of the existing stocks which each possesses at its warehouse. In that case condition 2 of the Vender's license at page 14 which imposes in an obligation to submit a true and correct account of all liquors received by the licensee is not appropriate and the said reference has therefore been deleted from conditions 2 and 15.

Sd/-J.R.Dhurandhar.
23-2

Additional Secretary to Government.

U.R. to S.D.No. 2207, dated the 23rd February 1949 .

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Legal Department.

The Revenue Department has forwarded the forms of licenses for the manufacture and sale of certain intoxicants for a scrutiny from the legal point of view. The Revenue Department has confirmed in its note dated the 13th April 1949 the presumption made in this Department U.R.No. 3771. dated the 7th April 1949. that the existing forms which are to be replaced by the proposed forms have been settled in consultation with the Remembrancer of Legal Affairs. The Revenue Department was also requested to state in what respects the proposed forms diff-er from the existing forms. The Revenue Department has not stated in what respects the present forms differ from the old forms settled by the ~~XXXXX~~ R.L.A.. Attention of Revenue Department is in this respect invited to the several forms of licences forwarded with a R.L.A.'s No. 104-Confl.. dated 1st March 1943. No. 4615. dated the 30th June 1944 and No. 2288. dated 26th February 1949. The Revenue Department is requested to examine the forms of licenses sent for scrutiny to R.L.A. again and to specify any point or points on which legal difficulty is felt in respect of the license forms.

Sd/- J.R.Dharandhar.

11-5

Additional Secretary to Government.

U.R. to R.D.No. 5196. dated the 11th May 1949.

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Legal Department.

The Commissioner of Excise states (at p. 1 ante) that the license form No. VIII is identical to license form No. VI except that it is proposed to omit therefrom a condition regarding assessment fee and to add a condition binding the licensee to sell to wholesalers or retailers only. License form No. VI has been returned to Revenue Department for further examination in the light of the Legal Department U.R.No. 5196 , dated the 11th May 1949 In order to ensure that the conditions of both the forms are on identical lines, it is better if both the forms are scrutinised together. The case is therefore returned to Revenue Department to examine this license form along with license form No. VI returned to Revenue Department under the said U.R.

Sd/- J.R.Dhurandhar,

19-7.

Additional Secretary to Government.

U.R. to R.D.No. 5180, dated the 20th July1949.

S.A.K.
11-6
4 copies

Legal Department.

It is proposed to levy certain fees and impose certain conditions in respect of licenses to begiven to registered medical practitioners and approved manufactures of indigenous medicines for possessing opium and ganja. Clauses (a), (d), (e) and (f) of section 144(1) of the Bombay Prohibition Act, 1949 provide for imposing conditions and levying fees. There was no power given to the Commissioner for making regulations under the Bombay Abkari Act, 1878. But sections 35A of that Act empowered the Commissioner to make rules. No rules on the subject specified in clauses (a), (d), (e) and (g) of section 35A of the Bombay Abkari Act, 1878 which now correspond to clauses (a) , (d) , (e) and (f) of sub-section (1) of section 144 of the Bombay Prohibition Act, appear to have been made by the Commissioner since 1912 from which year he was empowered make rules. If such rules are made they are saved under section 148 of the Bombay Prohibition Act, 1949, and the conditions proposed can be embodied in the proposed two licenses. If not, such regulations will have to be made by the Commissioner. The powers under clause (1) of sub-section (I) of section 144 of the Prohibition Act are new. The Revenue Department may therefore, ascertain whether any rules on the subject are made by the Commissioner If not how, the differenct conditions were inserted in different forms to suit the circumstances of each case.

2. It is presumed that the collectors have been authorised to grant the said licenses.

Sd/-

For Additional Secretary to Government.

U.R. to R.D.No. 13635, dated the 28th November 1949.

S.A.K.
11-6
4 copies

14/6